

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION**

LUTRON ELECTRONICS CO., INC.,)	
)	
)	
Plaintiff,)	CIVIL ACTION NO. 9:07-cv-0097-RHC
)	
v.)	
)	
LEVITON MANUFACTURING CO., INC.,)	
)	
Defendant.)	
)	

**ANSWER, AFFIRMATIVE DEFENSES AND COUNTERCLAIM
OF DEFENDANT LEVITON MANUFACTURING COMPANY, INC.**

Pursuant to Fed. R. Civ. P. 7 and 12, Defendant Leviton Manufacturing, Company, Inc. (“Leviton”) hereby answers the Complaint filed by Plaintiff Lutron Electronics Company, Inc. (“Lutron”).

1. Leviton has not yet responded to Lutron’s Second Amended Complaint, but incorporates by reference any Answer it files in that action at the appropriate time.
2. Leviton admits only so much of the allegations of this paragraph that allege that Lutron is in the business of designing, developing and marketing lighting control products. Leviton is without sufficient information either to admit or deny the remaining allegations of this paragraph and, therefore, denies the remaining allegations in this paragraph.
3. Admitted.
4. Leviton admits this Court has subject matter jurisdiction over the patent infringement claims pursuant to the provisions of 28 U.S.C. §§ 1331 and 1338. Leviton denies that this Court has subject matter jurisdiction over Lutron’s claims pursuant to 28 U.S.C. §§ 2201 and 2202.

5. Leviton admits this Court has personal jurisdiction over it. Leviton denies the remaining allegations in this paragraph.

6. Denied.

7. Leviton denies that its products infringe any valid claims of Lutron's patents.

Leviton is without sufficient information either to admit or deny the remaining allegations in this paragraph and, therefore, denies the allegations.

8. Admitted.

9. Leviton is without sufficient information either to admit or deny and, therefore, denies the allegations in this paragraph.

10. Leviton admits that what purports to be a copy of the '798 patent was attached to the Complaint as Exhibit 1. Leviton admits that the face of the '798 patent indicates it was issued on December 27, 1994, and that it bears the title "Combined Bezel and Wall Switch Actuators." Leviton admits that the face of the '798 patent further lists the inventors of the '798 patent as Gary Bryde, Robert Hanna, Noel Mayo, Donald Mosebrook and Joel Spira and the assignee as Lutron. Leviton is without sufficient information either to admit or deny the remaining allegations in this paragraph and, therefore, denies the allegations.

11. Leviton incorporates all foregoing paragraphs as if fully set forth herein.

12. Denied.

13. Denied.

14. Denied.

15. Denied.

16. No response required.

AFFIRMATIVE DEFENSES

Non-Infringement

17. Leviton has not infringed, either directly or indirectly, any valid claim of the '798 patent.

Invalidity

18. The '798 patent is invalid for failure to comply with one or more of the following statutory provisions 35 U.S.C. §§ 101, 102, 103, 112 or 171.

COUNTERCLAIM

Pursuant to Fed. R. Civ. P. 13 and 57, Leviton asserts the following counterclaim:

19. Leviton realleges and incorporates by reference the allegations contained in its Answer and Affirmative Defenses contained in paragraphs 1-18 above.

20. This Court has jurisdiction over this Counterclaim pursuant to 28 U.S.C. §§ 2201 and 2202.

21. On April 24, 2007, Lutron commenced this lawsuit by filing the Complaint alleging that Leviton has infringed, either directly or indirectly, the '798 patent and requesting this Court enter an order finding that Leviton has infringed, either directly or indirectly, the claims of the '798 patent.

22. In light of Lutron's baseless allegations the Leviton has in the past and will in the future infringe, either directly or indirectly, the '798 patent, there is a real and immediate controversy between Lutron and Leviton concerning the '798 patent.

23. Leviton has not infringed, either directly or indirectly, any valid claim of the '798 patent.

24. Leviton is entitled to a declaration that it does not infringe, either directly or indirectly, any valid claim of the '798 patent.

25. The '798 patent is invalid for failure to comply with one or more of the following statutory provisions 35 U.S.C. § § 101, 102, 103, 112 or 171.

26. Leviton is entitled to a declaration that the '798 patent is invalid for failure to comply with one or more of the following statutory provisions 35 U.S.C. § § 101, 102, 103, 112 or 171.

PRAYER FOR RELIEF

WHEREFORE, Leviton requests the following relief:

- (a) Dismissing Lutron's Complaint, with prejudice, and denying any claim for relief prayed for therein;
- (b) Judgment that Leviton does not infringe and will not infringe, directly or indirectly, any valid claim of the '798 patent.
- (c) Judgment that the '798 patent is invalid.
- (d) A declaration that Leviton does not infringed and will not infringe, directly or indirectly, any valid claim of the '798 patent.
- (e) A declaration that the '798 patent is invalid.
- (f) Judgment that this is an exceptional case and an award of attorneys' fees and costs pursuant to 35 U.S.C. § 285.
- (g) Such other relief as the Court deems appropriate.

JURY TRIAL DEMAND

Leviton hereby requests trial by jury on all issues so triable.

Dated: May 25, 2007

Respectfully submitted,

/s/ Sam Baxter
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**COUNSEL FOR DEFENDANT
LEVITON MANUFACTURING
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on May 25, 2007 to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system per Local Rule CV-5(a)(3).

/s/ Sam Baxter